

## Subchapter H—Clauses and Forms

### PART 2852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

#### Subpart 2852.1—Instructions for Using Provisions and Clauses

Sec.  
2852.102 Incorporating provisions and clauses.  
2852.102–270 Incorporation in full text.

#### Subpart 2852.2—Text of Provisions and Clauses

2852.201–70 Contracting Officer's Technical Representative (COTR).  
2852.211–70 Brand-name or equal.  
2852.223–70 Unsafe conditions due to the presence of hazardous material.  
2852.233–70 Protests filed directly with the Department of Justice.

AUTHORITY: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 28 CFR 0.76(j).

SOURCE: 63 FR 16135, Apr. 2, 1998, unless otherwise noted.

#### Subpart 2852.1—Instructions for Using Provisions and Clauses

##### 2852.102 Incorporating provisions and clauses.

##### 2852.102–270 Incorporation in full text.

JAR provisions or clauses shall be incorporated in solicitations and contracts in full text.

#### Subpart 2852.2—Text of Provisions and Clauses

##### 2852.201–70 Contracting Officer's Technical Representative (COTR).

As prescribed in subpart 2801.70, insert the following clause:

CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR) (JAN 1985)

(a) Mr./Ms (Name) of (Organization) (Room No.), (Building), (Address), (Area Code & Telephone No.), is hereby designated to act as Contracting Officer's Technical Representative (COTR) under this contract.

(b) The COTR is responsible, as applicable, for: receiving all deliverable, inspecting and accepting the supplies or services provided hereunder in accordance with the terms and conditions of this contract; providing direc-

tion to the contractor which clarifies the contract effort, fills in details or otherwise serves to accomplish the contractual Scope of Work; evaluating performance; and certifying all invoices/vouchers for acceptance of the supplies or services furnished for payment.

(c) The COTR does not have the authority to alter the contractor's obligations under the contract, and/or modify any of the expressed terms, conditions, specifications, or cost of the agreement. If as a result of technical discussions it is desirable to alter/change contractual obligations or the Scope of Work, the Contracting Officer shall issue such changes.

(End of clause)

##### 2852.211–70 Brand-name or equal.

As prescribed in 2811.104–70, insert the following clause:

BRAND-NAME OR EQUAL (JAN 1985)

(a) The terms “bid” and “bidders”, as used in this clause, include the terms “proposal” and “offerors”. The terms “invitation for bids” and “invitational”, as used in their clause include the terms “request for proposal” and “request”.

(b) If items called for by this invitation for bids have been identified in the schedule by a “brand name or equal” description, such identification is intended to be descriptive but not restrictive, and is to indicate the quality and characteristics of products that will be satisfactory. Bids offering “equal” products (including products of a brand name manufacturer other than the one described by brand name) will be considered for award if such products are clearly identified in the bids and are determined by the Government to meet fully the salient characteristics and requirements listed in the invitation.

(c) Unless the bidder clearly indicates in his/her bid that he/she is offering an “equal” product, his/her bid shall be considered as offering the brand name product referenced in the invitation for bids.

(d)(1) If the bidder proposes to furnish an “equal” product, the branch name, if any, of the product to be furnished shall be inserted in the space provided in the invitation for bids, or such product shall be otherwise clearly identified in the bid. The evaluation of bids and the determinations to equality of the product offered shall be the responsibility of the Government and will be based on information furnished by the bidder or